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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,912	06/30/2003	Linda Barker	2A0120.USD	3832

7590

11/17/2004

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EXAMINER

BOMBERG, KENNETH

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,912

Applicant(s)

BARKER, LINDA

Examiner

Kenneth Bomberg

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. All references of record in parent application PCT/GB00/01732 have been considered. However, as applicant has failed to list the patents on a FORM PTO-1449, they will not be printed on the face of any patent issuing from this application. Should applicant wish these references to be printed, a FORM PTO-1449 listing those patents should be provided.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Credle (WO 91/17948) in view of Whigham et al. (U.S. 5,011,043).

In figures 1, 8 and 16, Credle teaches of a:

Beverage dispenser (10) comprising a housing containing a diluent valve (above 285) and at least two concentrate valves (285), each valve having its own inlet (124) and outlet (126), characterized in that all the outlets (126) lead to a single dispense nozzle (283).

However instead of the claimed flow rate sensor and valve arrangement, a standard flow control module having a mechanical flow controller and valve is taught per figure 8.

Whigham et al. teaches in a beverage dispenser similar to that of Credle the improvement of:

A flow rate sensor (62/64) is provided for each valve (Figs. 1-3, and 5 -various embodiments), the flow rate sensors (62/64) being connected to a controller (66), and a setting mechanism (20) is provided to open and close each valve, the controller (66) operating the setting mechanism whereby one concentrate valve and the diluent valve may be opened to dispense a particular beverage and, in response to the sensed flow rates through those opened valves, controlling the degree of opening of those valves to achieve a predetermined diluent to concentrate ratio for the beverage mixture in the dispense nozzle (54) (see abstract column 2, line33 to column 3, line 56).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have substituted the valve arrangement (10) of Whigham et al. for the valve arrangement (285/287 and Fig. 8) of Credle in order to advantageously avoid the need to periodically adjust the mechanical flow controls of Credle to provide correct ratios as explicitly taught by Whigham et al. (see column 1, lines 16-25).

Allowable Subject Matter

4. Claims 16 and 17 are allowed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art listed on the attached FORM PTO-892 have been included

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because they show beverage dispensers using flow meters to control dispensing valves to achieve desired mixing ratios.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Bomberg whose telephone number is 571-272-4922. The examiner can normally be reached on Monday, Tuesday, Thursday and alternative Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.B.


KENNETH BOMBERG
PRIMARY EXAMINER